

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/921

<u>Applicant</u>	:	Fortune Maker Investment Limited represented by R-Riches Property Consultants Limited
<u>Site</u>	:	Lots 1458 S.B (Part) and 1459 S.B (Part) in D.D. 111 and Adjoining Government Land, Kam Tin Road, Pat Heung, Yuen Long
<u>Site Area</u>	:	About 763 m ² (including about 115 m ² of government land)
<u>Land Status</u>	:	(i) Block Government Lease (demised for agricultural use) (about 84.9% of the Site) (ii) Government Land (about 15.1% of the Site)
<u>Plan</u>	:	Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zoning</u>	:	“Open Storage” (“OS”)
<u>Application</u>	:	Proposed Temporary Shop and Services with Ancillary Office for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services with ancillary office for a period of 5 years. According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified)’ is a Column 2 use in the “OS” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently hard-paved, fenced, and partly under construction and partly used for parking of vehicles (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves the erection of two 1 to 2-storey structures (ranging from about 4m to 6m high) with a total floor area of about 241m² for shop and services (vehicle parts) and ancillary office uses. The estimated number of staff working at the Site and number of visitors per day are five and 30 respectively. There will be six parking spaces for private cars and a loading/unloading space for light goods vehicle (LGV) at the Site. No vehicles exceeding 5.5 tonnes will be used. The operation hours are between 9:00 a.m. and 7:00 p.m. daily, including public holidays.

The Site is accessible to Kam Tin Road via a local track. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is involved in three previous applications (No. A/YL-PH/24, 31 and 807) (detailed in paragraph 5 below). The last application No. A/YL-PH/807, submitted by the same applicant for the same temporary shop and services use as the current application, was approved with conditions by the Rural and New Town Planning Committee (the Committee) in July 2019. The planning permission is valid until 5.7.2024. A comparison of the major development parameters submitted under the last application and the current application is summarized below:

Major Development Parameters	Last Application No. A/YL-PH/807 (a)	Current Application (b)	Difference (b)-(a)
Site Area (m ²)(about) - including Government Land (m ²)(about)	755 108	763 115	+8 (+1.1%) +7(+6%)
Total Floor Area (m ²)(about)	692	241	-451 (-65%)
No. of Structures	12	2	-10 (-83%)
No. of Storeys	2	1 to 2	-
Building Height (m) (about)	7	4 - 6	-3 to -1 (-43% to -14%)
No. of Parking Spaces - Private car	-	6	+6
No. of Loading/Unloading Space - LGV	1	1	-

- 1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application form and supplementary information (**Appendix I**) received on 24.5.2022
- (b) Further Information (FI) received on 7.7.2022 and (**Appendix Ia**) 8.7.2022

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form, supplementary information and FI in **Appendices I** and **Ia**. They can be summarized as follows:

- (a) The applicant intends to operate a new shop and services of vehicle parts at the Site to serve the nearby workshops in the area.

- (b) The Site is involved in several previous s. 16 applications, including the latest planning application (No. A/YL-PH/807) approved for the same use in 2019. Approval of the current application will not set an undesirable precedent. Given the temporary nature of the application, the long-term planning intention of the “OS” zone will not be frustrated.
- (c) The proposed development would not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. The applicant will strictly follow the requirements of Environmental Protection Department’s (EPD’s) ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ and the Professional Persons Environmental Consultative Committee Practice Notes (ProPECC PNs) 5/93 for sewage treatment at the Site. Licensed collectors will be employed to collect and dispose of the sewage regularly.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and notifying the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the government land portion within the Site, TPB PG-No.31A is not applicable.

4. Background

The Site is not subject to any planning enforcement action.

5. Previous Applications

- 5.1 The Site, in part or in whole, is the subject of 3 previous applications (No. A/YL-PH/24, 34 and 807). The former two applications for in-situ improvement works on the sites which constituted an alternation and/or modification of the existing use, and are not relevant to the current application. The last application No. A/YL-PH/807 for temporary shop and services (for development of a shopping street) at the Site was approved with conditions by the Committee in July 2019 mainly for the reasons that approval on a temporary basis would not frustrate the long-term planning intention; the proposed use was not incompatible with the surrounding land uses; relevant departments consulted had no objection to or no adverse comment; and their technical concerns could be addressed by appropriate approval conditions. The planning permission is valid until 5.7.2024.
- 5.2 Compared with the last application, there are changes in the major development parameters, including increase in site area, decrease in total floor area / number of structures / building height, increase in number of car parking spaces, and changes of the site layout, details of which are set out in paragraph 1.3 above.

- 5.3 Details of the previous applications are summarized in **Appendix II** and the locations are shown on **Plan A-1b**.

6. Similar Applications

- 6.1 There are two similar applications (No. A/YL-PH/750 and 842), involving the same site, for temporary shop and services within the “OS” zone in the vicinity of the Site in the past 5 years. The applications were approved with conditions by the Committee in July 2017 and June 2020 on similar considerations as stated in paragraph 5.1 above. However, the planning permission of application No. A/YL-PH/842 was revoked in October 2021 due to non-compliance with approval conditions.
- 6.2 Details of the similar applications are summarized at **Appendix II** and the locations are shown on **Plan A-1a**.

7. The Site and Its Surrounding Areas (Plans A-1a to A-4)

- 7.1 The Site is:
- (a) hard-paved, fenced, and partly under construction and partly used for parking of vehicles; and
 - (b) accessible from Kam Tin Road.
- 7.2 The surrounding areas have the following characteristics:
- (a) to its north, northeast, east and west are open storage / storage yards, residential dwellings/structures and vacant land;
 - (b) to its southeast, across Kam Tin Road, are some residential dwellings/structures; and
 - (c) to its south and southwest, across Kam Tin Road are an open storage yard, a vehicle repair workshop, a dog kennel, residential dwellings/structures and sites with works in progress.

8. Planning Intention

The planning intention of the “OS” is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

9. Comments from Relevant Government Departments

All the government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III** and **IV** respectively.

10. Public Comments Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, two public comments from individuals were received. The commenters object to the application mainly on the grounds that the proposed development would cause pollution and safety risk to the nearby villagers thus affecting their living quality; and the approval conditions of the previous application (No. A/YL-PH/807) have not yet been fully complied with.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (vehicle parts) with ancillary office at the Site, which is a Column 2 use within the “OS” zone. The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses; and provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. Although the proposed development is not entirely in line with the planning intention of the “OS” zone, it is not incompatible with the intended uses in the zones. It is considered that temporary approval of the application for a period of 5 years would not jeopardize the long-term planning intention of the “OS” zone.
- 11.2 The proposed development involving two 1 to 2-storey structures (about 4m to 6m high) is considered not incompatible with the surrounding land uses which are rural in character intermixed with storage/open storage yards, residential dwellings/structures, a dog kennel, a vehicular repair workshop and vacant land. Given the location of the Site abutting Kam Tin Road and the nature of the proposed retail use, it is unlikely that it would cause adverse environmental impact on the surrounding areas.
- 11.3 According to the applicant, the application is for operating a vehicle parts shop to serve the nearby workshops. It is anticipated that the proposed development would not result in adverse traffic, environmental and drainage impacts to the surrounding areas. Relevant government departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize / address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary

Uses and Open Storage Sites” to minimize any possible environmental nuisance.

- 11.4 The Site is involved in a previous application (No. A/YL-PH/807) approved for temporary shop and services use in September 2021 with different business nature as the current application. As the applicant intends to operate a new vehicle parts shop at the Site with different layout and parameters as the previously approved case, the submission of a fresh planning application is necessitated.
- 11.5 Two public comments objecting to the application were received during the statutory publication period as mentioned in paragraph 10 above. In this regard, government departments’ comments and planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the proposed temporary shop and services with ancillary office for a period of 5 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years until 15.7.2027. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period.
- (b) the implementation of the accepted drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.1.2023;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the implementation of the accepted fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 15.1.2023;
- (e) if the above planning condition (a) or (c) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and

- (f) if any of the above planning condition (b) or (d) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

The recommended advisory clauses are attached in **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed development is not in line with the planning intention of the "OS" zone which is for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form and supplementary information received on 24.5.2022
Appendix Ia	FI received on 7.7.2022 and 8.7.2022
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments

Drawing A-1	Site layout plan
Plan A-1a	Location plan with similar applications
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
JULY 2022**